

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter)
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1998 Biennial Regulatory Review -)
Reform of the International Settlements)
Policy and Associated Filing Requirements)
)
Regulation of International)
Accounting Rates)

IB Docket No. 98-148

CC Docket No. 90-337

**COMMENTS OF DEUTSCHE TELEKOM AG
AND DEUTSCHE TELEKOM, INC.**

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Deutsche Telekom AG and Deutsche Telekom, Inc. (collectively „Deutsche Telekom“), welcome the Federal Communications Commission's (FCC) proposal of a Reform of the International Settlements Policy (ISP) and Associated Filing Requirements.

I. Introduction

Since the adoption of the U.S. Telecommunications Act of 1996, a progressive liberalization of the telecommunications market has taken place on the European level, as well as on the international level. Since January 1, 1998, full liberalization has occurred in most European Union (EU) Member States. In addition, the General Agreement on Trade in Services (GATS) and the World Trade Organization (WTO) Basic Telecommunications Agreement have resulted in an ever increasing trend toward liberalization in other WTO Member States. Accordingly, any review of the FCC's ISP must adapt FCC regulations to the competitive changes in the global telecommunications market.

Deutsche Telekom believes that the most effective way to ensure low rates for the termination of international telecommunications traffic is to foster an environment that allows for substantial carrier choice for terminating international traffic. Deutsche Telekom further believes that this scenario can only be achieved when the regulatory system focuses on worldwide liberalization as a goal, rather than on the regulation of international traffic. A competitive market for telecommunications services will develop where carriers are free to choose and to negotiate the most efficient way to terminate their international traffic without intervention by governments or regulators. Moreover, it is the regulation of international traffic that creates significant risks with regard to the application of the most-favored-nation (MFN) clause of the GATS.

II. ISP

The ISP, which requires the equal division of accounting rates, non-discriminatory treatment of U.S. carriers and proportionate return of inbound traffic, was developed to prevent foreign monopoly carriers from whipsawing U.S. carriers. This situation was of particular concern in the past, since it was quite common that single governmental or quasi-governmental entities from other countries negotiated directly with multiple private U.S. entities for the formation of operating agreements to arrange international services.

The above-mentioned changes in the global telecommunications market have reduced the risk of disadvantages to U.S. telecommunications companies, as increasingly, negotiations are carried out between competing private entities on both sides, rather than between a U.S. company on the one hand and a state-owned monopoly on the other. As a result, the ISP no longer serves its original purpose of fostering competition, because between private companies, a market without regulatory restraints forms the optimal surrounding for effective competition.

Deutsche Telekom agrees with the FCC that the ISP potentially reduces incentives for U.S. carriers to negotiate low settlement rates because all U.S. carriers are aware of the rates paid by other U.S. carriers. Coupled with the non-discrimination provisions of the ISP, U.S. carriers are unable to achieve any rate advantage over their U.S. competitors.

Furthermore, Deutsche Telekom shares the FCC's view that the proportionate return component of the ISP exerts a distorting effect on the market for international services because of the difficulty it causes for new carriers attempting to enter the market. Without the ISP, there would be greater uncertainty, and thus, greater pressure on U.S. carriers to compete on the basis of price to the benefit of consumers.

III. Selective Application of the ISP

In the opinion of Deutsche Telekom, the introduction of international simple resale (ISR) and the flexibility policy, each of which loosened the ISP requirements, were steps in the right direction for encouraging competition and lowering settlement rates on many international routes. The FCC's Notice of Proposed Rulemaking (NPRM) continues this effort by proposing a further deregulation of the telecommunications market.

1. No Application of the ISP to Arrangements with Foreign Carriers that Lack Market Power

The FCC proposes to no longer apply the ISP to agreements with foreign carriers from WTO Member Countries that lack market power, and to exempt U.S. carriers from filing information on arrangements with such carriers. In this context, what is of significance for international carriers, and the position that Deutsche Telekom herein encourages the FCC to take, is that the FCC should differentiate between carriers with monopoly power on the one hand and non-monopoly carriers with simple market power on the other. This latter group forms a significant part of a liberalized market, while the first does not. Any risk to competition in the United States comes solely from the first group -- those with monopoly power and the attendant ability to whipsaw U.S. carriers. The second group, lacking such power, poses no such risk, since U.S. carriers have the choice to terminate their international calls either with the incumbent or with any other carrier. Thus, ISP should no longer be applied to carriers, which may have market power but are not monopoly carriers.

2. No Application of the ISP to Arrangements with Foreign Carriers in Liberalized Markets

Furthermore, Deutsche Telekom fully supports the FCC's alternative proposal to no longer apply the ISP and related filing requirements to U.S. carriers' arrangements with any foreign carrier in liberalized markets with low settlement rates if the country meets the FCC's standard for international simple resale. With this rule, not only

carriers that have concluded ISR agreements would benefit from the exception to the ISP, but also other carriers in countries for which the FCC has authorized ISR, which again promotes competition.

The alternatively proposed standard, however, which requires the settlement of 50% of the traffic on the route to be at or below benchmark rates *and* that the foreign market permits U.S. carriers to provide service via ISR, would violate the MFN clause of the GATS Article II. This is because the latter condition of this standard is based on the principle of reciprocity even though this principle is prohibited by Article II.

3. Further Deregulation

Deutsche Telekom would encourage the proposed changes to go even further. Here, the international telecommunications services market should be treated as a regular free market, subject to general competition rules. The deregulation contemplated in the FCC's current biennial review should apply to the arrangements between U.S. carriers and carriers in liberalized countries. For agreements between carriers from liberalized countries and non-liberalized countries, the ISP could be retained for a transitional period until these countries fulfil the requirements for sufficient competition. However, apart from this exception, carriers should be free to determine international rates through commercial negotiations without government or regulatory intervention.

IV. Revisions to the ISR Rules

The Commission proposes to permit carriers to provide international simple resale (ISR) for a limited amount of traffic on routes where ISR would otherwise not be authorized under the current legal framework. Although Deutsche Telekom pleads for a far-reaching deregulation of the telecommunications market, we would like to point out that there is a risk that the proposed modification in favor of non-liberalized countries might result in 'one-way bypass' of the accounting rate system to the disadvantage of the carriers in - not only the United States but - all liberalized countries. Carriers from liberalized countries would have to pay settlement rates. At

the same time, the inbound switched traffic from countries using 'one-way bypass' would be reduced while the outbound switched traffic from these countries remained subject to the accounting rate system.

The Commission's proposal to decide in advance to lift the ISP requirements at some future point when international markets have become sufficiently competitive, could be an added incentive for non-liberalized countries to liberalize their markets as quickly as possible.

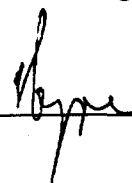
V. Conclusion

Deutsche Telekom supports the Commission's proposed modifications of the ISP and the associated filing requirements, as they will serve to facilitate competition. Nevertheless, Deutsche Telekom favors a further deregulation in this area with respect to all liberalized markets, as, in the new competitive environment, regulatory restraints are no longer needed or appropriate and bear the risk of MFN violation.

With regard to non-liberalized countries, regulators should support their efforts to open up their telecommunications markets. Developing countries can benefit from sharing the experience of successful regulatory reforms and their operators from management experience on how to improve efficiency.

Respectfully submitted,

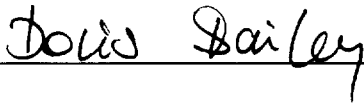
Dr. Andreas Tegge, Deutsche Telekom Inc.



September 16, 1998

Certificate of Service

I, Doris Bailey, hereby certify that on this 16th day of September 1998, a true copy of the foregoing Comments of Deutsche Telekom was hand-delivered to the persons indicated by an asterisk (*) on the attached service list, and a true copy was sent by first class mail, postage prepaid, to the other persons listed.

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